



Rep. Anthony DeLuca

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09700HB1309ham001

LRB097 07117 AJO 53096 a

1 AMENDMENT TO HOUSE BILL 1309

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1309 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by  
5 changing Section 9-120 as follows:

6 (735 ILCS 5/9-120)

7 Sec. 9-120. Leased premises used in furtherance of a  
8 criminal offense; lease void at option of lessor or assignee.

9 (a) If any lessee or occupant, on one or more occasions,  
10 uses or permits the use of leased premises for the commission  
11 of any act that would constitute a felony or a Class A  
12 misdemeanor under the laws of this State, the lease or rental  
13 agreement shall, at the option of the lessor or the lessor's  
14 assignee become void, and the owner or lessor shall be entitled  
15 to recover possession of the leased premises as against a  
16 tenant holding over after the expiration of his or her term. A

1 written lease for a residential dwelling unit shall contain  
2 language that the commission of any act on the premises by the  
3 lessee, occupant, household member of the lessee or occupant,  
4 or guest of the lessee or occupant that would constitute a  
5 felony or a Class A misdemeanor under the laws of this State  
6 shall give the owner or lessor the right to void the lease and  
7 recover possession of the leased premises. Failure to include  
8 or state this language in an oral or written lease for a  
9 residential dwelling unit shall not waive or impair the rights  
10 of the lessor or lessor's assignee under this Section or the  
11 lease.

12 (b) The owner or lessor may bring a forcible entry and  
13 detainer action, or, if the State's Attorney of the county in  
14 which the real property is located or the corporation counsel  
15 of the municipality in which the real property is located  
16 agrees, assign to that State's Attorney or corporation counsel  
17 the right to bring a forcible entry and detainer action on  
18 behalf of the owner or lessor, against the lessee and all  
19 occupants of the leased premises alleging the criminal activity  
20 and any other lease violations to be considered. The assignment  
21 must be in writing on a form prepared by the State's Attorney  
22 of the county in which the real property is located or the  
23 corporation counsel of the municipality in which the real  
24 property is located, as applicable. If the owner or lessor  
25 assigns the right to bring a forcible entry and detainer  
26 action, the assignment shall be limited to those rights and

1 duties up to and including delivery of the order of eviction to  
2 the sheriff for execution. The owner or lessor shall remain  
3 liable for the cost of the eviction whether or not the right to  
4 bring the forcible entry and detainer action has been assigned.

5 (c) A person does not forfeit any part of his or her  
6 security deposit due solely to an eviction under the provisions  
7 of this Section, except that a security deposit may be used to  
8 pay fees charged by the sheriff for carrying out an eviction.

9 (d) If a lessor or the lessor's assignee voids a lease or  
10 contract under the provisions of this Section ~~and the tenant or~~  
11 ~~occupant has not vacated the premises within 5 days after~~  
12 ~~receipt of a written notice to vacate the premises,~~ the lessor  
13 or lessor's assignee may seek relief as if the tenant were  
14 holding over after the expiration of his or her term under this  
15 ~~Article IX~~. Notwithstanding Sections 9-112, 9-113, and 9-114 of  
16 this Code, judgment for costs against a plaintiff seeking  
17 possession of the premises under this Section shall not be  
18 awarded to the defendant unless the action was brought by the  
19 plaintiff in bad faith. An action to possess premises under  
20 this Section shall not be deemed to be in bad faith when the  
21 plaintiff based his or her cause of action on information  
22 provided to him or her by a law enforcement agency or the  
23 State's Attorney, or the municipality.

24 (e) After a trial, if the court finds, by a preponderance  
25 of the evidence, that the allegations of criminal activity in  
26 the complaint have been proven, the court shall enter judgment

1 for possession of the premises in favor of the lessor plaintiff  
2 and the court shall order that the plaintiff shall be entitled  
3 to re-enter the premises immediately. After a trial, if the  
4 court finds that criminal activity has not been proven, but has  
5 found: (i) that the tenant or occupant has otherwise violated  
6 the lease in a manner so as to be a significant disturbance to  
7 the quiet enjoyment of other tenants or neighbors, and (ii)  
8 that the lessor had previously given written notice to the  
9 tenant or occupant, delivered by personal service or by posting  
10 on the premises, of such lease violation at least 10 days prior  
11 to the start of recovery of possession under this Section, then  
12 the court may enter judgment for possession of the premises in  
13 favor of the plaintiff and the court shall order that the  
14 lessor shall be entitled to re-enter the premises immediately.

15 (f) A judgment for possession of the premises entered in an  
16 action brought by a lessor or lessor's assignee, if the action  
17 was brought as a result of a lessor or lessor's assignee  
18 declaring a lease void pursuant to this Section, may not be  
19 stayed for any period in excess of 7 days by the court unless  
20 all parties agree to a longer period. Thereafter the plaintiff  
21 shall be entitled to re-enter the premises immediately. The  
22 sheriff or other lawfully deputized officers shall execute an  
23 order entered pursuant to this Section within 7 days of its  
24 entry, or within 7 days of the expiration of a stay of  
25 judgment, if one is entered.

26 (g) Nothing in this Section shall limit the rights of an

1 owner or lessor to bring a forcible entry and detainer action  
2 on the basis of other applicable law.

3 (Source: P.A. 90-360, eff. 1-1-98.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.".